

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 454 OF 1992

Kundandas W. Hotchandani ..Petitioner

versus

Seeta K. Hotchandani ..Respondent

Mr. M. R. Katikar for the Petitioner.

None for the Respondent.

CORAM : D. G. DESHPANDE, J.

DATE : 4TH OCTOBER, 2006

ORAL ORDER :

1. Heard Advocate for the petitioner. Nobody is present for the respondent.

2. Petitioner is a husband. There is an order of maintenance against him passed by II Joint Civil Judge, Senior Division, Thane, dated 29.11.1991 by which he was directed to pay Rs.1,500/- per month to the respondent - wife as a permanent alimony. There is no stay to this order though the petition was admitted.

3. The petitioner has filed an affidavit along with the affidavit of his son after filing of the petition. According to both these affidavits, the petitioner who was working as a Chemical Engineer in a factory and has retired from the service on 6.5.1985. Advocate for the petitioner therefore states that looking to the fact that the petitioner is retired from service, an amount of maintenance should be reduced. There is no counter affidavit of the respondent to these affidavits of the petitioner and his son. When the petition was filed his age is shown as 53 years in 1992. Admittedly, the petitioner is 67 years as of now. Therefore his contention that he has retired from service can be accepted. It is a fact that for a man working as a Chemical Engineer in a factory either there is no pension or if the pension is there that is not equivalent to salary which the man originally earns. However, it is also a fact that the petitioner must have received retirement benefits but the amount is not known and nothing contrary is shown, therefore the petition is required to be partly allowed.

4. In the result, the petition is partly allowed. Rule is made absolute accordingly. The

impugned order of the II Joint Civil Judge, Senior Division, Thane, dated 29.11.1991 is modified. The petitioner to pay Rs.750/- (Rupees Seven Hundred Fifty) to the respondent. Petitioner should clear all the arrears, if any, prior to this date, at the earliest. Certified copy expedited.

(D.G. DESHPANDE, J.)